

**IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re: )  
RS FIT NW LLC, ) Chapter 11  
Debtor. ) Case No. 20-11568 (KBO)  
 ) (Jointly Administered)  
 )  
24 HOUR FITNESS WORLDWIDE, INC., )  
Plaintiff, )  
v. )  
CONTINENTAL CASUALTY COMPANY; ) Adv. Pro. No. 20-51051 (KBO)  
ENDURANCE AMERICAN SPECIALTY )  
INSURANCE COMPANY; STARR SURPLUS )  
LINES INSURANCE COMPANY; ALLIANZ )  
GLOBAL RISKS US INSURANCE COMPANY; )  
LIBERTY MUTUAL INSURANCE COMPANY; )  
BEAZLEY-LLOYD'S SYNDICATES 2623/623; )  
ALLIED WORLD NATIONAL ASSURANCE )  
COMPANY; QBE SPECIALTY INSURANCE )  
COMPANY; and GENERAL SECURITY )  
INDEMNITY COMPANY OF ARIZONA, )  
Defendants. )  
 )

**PROPERTY INSURER DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND  
INCORPORATED MEMORANDUM OF LAW**

**EXHIBIT A-18**

*Excerpts from the Deposition of Matthew Piro  
(4/27/2022)*

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

-----x  
In re: Chapter 11  
Case No. 20-11558  
(KBO)

24 HOUR FITNESS WORLDWIDE,  
INC., et al.,

Debtors.

-----x  
24 HOUR FITNESS WORLDWIDE, INC.,

Plaintiff,

v. Adv. Pro. No.  
20-51051 (KBO)

CONTINENTAL CASUALTY COMPANY;  
ENDURANCE AMERICAN SPECIALTY  
INSURANCE COMPANY; STARR SURPLUS  
LINES INSURANCE COMPANY; ALLIANZ  
GLOBAL RISKS US INSURANCE COMPANY;  
LIBERTY MUTUAL INSURANCE COMPANY;  
BEAZLEY-LLOYD'S SYNDICATES 2623/623;  
ALLIED WORLD NATIONAL ASSURANCE  
COMPANY; QBE SPECIALTY INSURANCE  
COMPANY and GENERAL SECURITY  
INDEMNITY COMPANY OF ARIZONA,

Defendants.

-----x  
DATE: April 27, 2022

TIME: 11:32 a.m.

Video-recorded Deposition of MATTHEW  
PIRO, on behalf of 24 Hour Fitness  
Worldwide, Inc., taken by counsel for  
defendant, held via Zoom videoconference,  
before Roberta Caiola, a Notary Public of  
the State of New York.

1 Matthew Piro  
2 it was at the time and I do not know that  
3 many public health experts really did  
4 either. It didn't seem like prior to  
5 March 16th that there was a clear  
6 understanding of how dangerous it was or  
7 how contagious it was, so I think that's  
8 all I can say on the matter.

9 Q. Well the company -- let me  
10 rephrase my question because I'll just ask  
11 with respect to you, you can only answer  
12 for yourself.

13 You certainly wouldn't have  
14 wanted either employees or customers to  
15 come into a 24 Hour Fitness facility where  
16 you believed that the virus was present;  
17 would you?

18 A. Frankly, based on the  
19 information that was in the public domain,  
20 we assumed the virus was likely in the  
21 majority of our clubs.

22 Q. And notwithstanding that, you  
23 were comfortable with having employees and  
24 customers enter all those clubs?

25 MR. O'CARRROLL: Objection to

1 Matthew Piro

2 MR. O'CARROLL: Objection to  
3 form.

4 A. I can't speak for how  
5 impossible it was to detect. In my mind,  
6 clearly the fact that it was detected by  
7 public health experts at the time, it was  
8 not impossible to detect. It was not  
9 possible for us to detect without any tools  
10 or resources in our clubs, but I don't know  
11 how else public health experts would be  
12 indicating that it was dangerous and highly  
13 transmissible if it was impossible to  
14 detect, as you just said.

15 Q. Just to be clear, you never  
16 received any notice from any public health  
17 agency or official that they had been in  
18 one of your clubs and detected COVID-19;  
19 correct?

20 A. Not to my recollection.

21 Q. You mentioned earlier that in  
22 response to people who had been in one of  
23 the clubs later indicating that they had  
24 tested positive for COVID, that the company  
25 had closed individual clubs. Did I hear

1 Matthew Piro  
2 dangerous place needed to not operate any  
3 longer, but it was I would say because we  
4 were being instructed by public health  
5 experts that COVID-19 in those specific  
6 areas was at a great risk of  
7 transmissibility, and so for the health and  
8 safety of our members and team members we  
9 needed to close our clubs.

10 Q. Well you had to close them  
11 because you were ordered by the government  
12 to close them; correct?

13 MR. O'CARROLL: Objection to  
14 form.

15 A. We closed them because the  
16 public orders indicated that COVID-19 in  
17 those specific areas was at a higher rate  
18 of transmissibility or risk, and it was  
19 dangerous to operate gyms.

20 So because we were instructed  
21 by experts in the public domain -- not in  
22 the public domain, in the public health  
23 field that gyms were dangerous and needed  
24 to close to keep people safe from COVID-19,  
25 that we needed to close them for the health

1                   Matthew Piro

2                   and safety of our team members and members.

3                   Q.       For those clubs that were  
4        listed as in question on this chart, what  
5        did in question mean?

6                   A.       Which column does it indicate  
7        in question?

8                   Q.       If you look at the chart  
9        there's a column that's titled "Status,"  
10      and there are some that are labeled  
11      "Closed," some that are labeled "To Close,"  
12      and some that are labeled "In Question."

13                  My question to you was on this  
14      chart what does in question mean?

15                  A.       That means in that area which  
16      is labeled as CLA, Central LA, there  
17      were -- I don't want to say tea leaves --  
18      the public health officer in those areas  
19      had indicated that that area was also at  
20      great risk, but they had not yet made any  
21      advisory statements.

22                  They had not indicated that the  
23      public health was at such great a risk that  
24      it was no longer safe to operate certain  
25      facilities, including gyms.

1 Matthew Piro

2 at 10:37 a.m.

3 BY MR. DENN:

4 Q. Mr. Piro, in response to a  
5 couple of questions before we took a break  
6 you made some reference to communications  
7 from public health officials. Do you  
8 recall that?

9 A. Yes, I recall that.

10 Q. Am I correct that all of the  
11 communications you're aware of from public  
12 health officials were in the form of  
13 government orders? In other words, you  
14 didn't receive any individualized  
15 communication from any public health  
16 official about any of your clubs?

17 A. We did not receive individual  
18 communication about any of our clubs, to my  
19 knowledge, but you're not correct in  
20 assuming that it was just related just to  
21 government orders. We were very much like  
22 the rest of the country, watching the news,  
23 looking at Facebook, Twitter posts from  
24 public health officials and a lot of --  
25 actually the best, most timely information

10 Q. And you didn't see any earlier  
11 drafts of it?

12 A. Not to my recollection.

13 Q. So at midnight on March 16,  
14 2020, when all of the clubs were supposed  
15 to close, had anyone at the company asked  
16 you whether any of the company's properties  
17 had been altered or damaged by COVID-19?

18 MR. O'CARROLL: Objection to  
19 form.

20 A. I don't remember a specific  
21 question in regards to was the property  
22 physically damaged by COVID-19, no.

23 Q. Had anyone reported to you that  
24 any 24 Hour Fitness property had been  
25 either lost or damaged by COVID-19 as of

1 Matthew Piro

2 midnight on March 16th?

3 MR. O'CARRROLL: Objection to

4 form.

5 A. I do recall specific examples  
6 of some of our equipment being damaged as a  
7 result of our team members' best efforts to  
8 disinfect them. Some of our equipment, as  
9 you may be aware, has electronic  
10 components, screens or digital readouts  
11 that show how fast you're going or how hard  
12 you're working or what your heart rate may  
13 be, and there were some instances of team  
14 members spraying disinfectant too heavily  
15 and leaving it too long on those pieces of  
16 equipment, in their best efforts to prevent  
17 other members or team members from getting  
18 COVID-19, but that is the extent at which  
19 I'm aware of any physical property damage  
20 that was reported to me in relation to the  
21 COVID-19 virus.

22 Q. And that's damage that was  
23 caused by someone attempting to clean  
24 equipment?

25 MR. O'CARRROLL: Objection to

1 Matthew Piro

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK )

5 : ss

6 COUNTY OF BRONX )

7

8 I, ROBERTA CAIOLA, a Certified  
9 Shorthand Reporter, do hereby certify:

10 That MATTHEW PIRO, the witness whose  
11 deposition is hereinbefore set forth, was  
12 duly sworn by me and that such deposition  
13 is a true record of the testimony given by  
14 the witness.

15 I further certify that I am not  
16 related to any of the parties to this  
17 action by blood or marriage, and that I am  
18 in no way interested in the outcome of this  
19 matter.

20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand on May 5, 2022

22 Roberta Caiola

23

24 ROBERTA CAIOLA